

TAYSIDE JOINT POLICE BOARD

29 January 2001

Report by the Chief Constable No. PB 7/2001

SUBJECT: THE PROMOTION OF RACIAL HARMONY AND EQUALITY

Abstract: The Race Relations (Amendment) Act 2000 received the Royal Assent on 30 November 2000 and is expected to take effect from April 2001. The thrust of the Act is to extend the Race Relations Act 1976 to prohibit discrimination in all functions of public authorities including the Joint Police Board. This report summarises the implications for the Board and the Chief Constable and gives an outline of the force strategy to meet the requirements of the legislation and Macpherson Report recommendations.

1. RECOMMENDATION

It is recommended that the Board;

- 1.1 note the terms of the Report and request the Chief Constable to submit regular reports updating them on compliance with the Act as a means of demonstrating their policy on promoting equality of opportunity and good relations between persons of different racial groups.
- 1.2 note the terms of the legislation in relation to compensation and agree to indemnify the Chief Constable and senior officers from any personal liability imposed on them in respect of claims arising from acts undertaken in the course of their employment.
- 1.3 note the position with regard to Her Majesty's Inspectorate of Constabulary's Race Relations Thematic Report 'Without Prejudice?'

2. BACKGROUND

- 2.1 Following the Inquiry into the death of Stephen Lawrence and the recommendations of Sir William Macpherson the police service at both national and local level has sought to ensure that both its internal management and external service delivery recognise racial diversity. Tayside Police has adopted the terms of a national guidance manual developed by ACPOS and this forms the framework against which a local implementation strategy is being delivered.
- 2.2 The Race Relations Act 1976 has until now been the primary legislation promoting good practice in employment and a limited range of local authority activity relating to education, housing, and the provision of goods, facilities and services.
- 2.3 The 1976 Act has now been amended and now applies to any public authority in carrying out any of its functions. The definition of a public authority is very wide and includes voluntary or private sector agencies undertaking work on behalf of an authority.

3. CURRENT POSITION

3.1 The Race Relations (Amendment) Act 2000 received the Royal Assent on 30 November 2000 and is expected to come into force from April 2001. The thrust of the Act is to extend the Race Relations Act 1976 to prohibit discrimination in all functions of public authorities.

3.2 Some functions fall outwith the Act but these are generally related to national government, judicial proceedings and immigration matters. The important change is that the new law makes it unlawful for any public authority to discriminate on racial grounds. In regard to policing there are implications for police authorities and chief constables.

3.3 The Implications for the Joint Police Board

3.3.1 A general duty is placed on police authorities to have due regard to the need:

- a) to eliminate unlawful racial discrimination; and
- b) to promote equality of opportunity and good relations between persons of different racial groups.

3.3.2 This general duty does not appear in itself to require specific actions by the Joint Board but it will be necessary for the authority to satisfy itself that its obligations under this part of the Act are being met. Some thought will be required to show how the promotion of good relations between different racial groups might be demonstrated. Clearly community consultation and interaction with ethnic minorities would be an element in recognising racial diversity and delivering a policing service which is appropriate to need. The Commission for Racial Equality advise that public authorities will be expected to consider the racial equality implications of everything they do, and give as examples the allocation of council housing, the closure or opening of a hospital or school, and the management of prisons. In the policing and law enforcement context this might translate to the allocation of resources, the closure or opening of a police station, and the management of courts.

3.3.3 The Secretary of State is empowered under the new Act to impose **'such duties as he considers appropriate'** on the authority **'for the purpose of ensuring the better performance of their duties.'** In addition the CRE has been given the power to issue practical guidance as enforceable codes of practice. It is not clear how the CRE will audit the level of performance but the new Act empowers that body to issue a compliance notice if it is satisfied that an authority is not complying. The notice will require the authority to comply with its duties and inform the CRE of the measures taken. Monitoring of performance may be undertaken through the medium of HM Inspectorate of Constabulary, the Accounts Commission or Audit Scotland.

3.3.4 The duties to be applied to police authorities in Scotland will be decided following public consultation by the Scottish Executive. At present it is only possible to suggest broad areas but the CRE advisory document anticipates that these duties could include:

- monitoring staff by ethnicity
- assessing the impact on racial equality of proposed policies
- consulting ethnic minorities on proposed policies
- monitoring the impact of existing policies and practice on racial equality.

- 3.3.5 Non-statutory guidance will be published by the CRE prior to April 2001 as a means of advising authorities on their compliance with the general duty. Orders imposing the specific duties will not come into effect until the codes of practice have been issued, which is likely to be towards the end of 2001.
- 3.3.6 The CRE advise that authorities should not wait for the Act or the specific duties to come into force and should start now to consider how they meet or fall short of the main thrust of the law.

3.4 The Implications for the Chief Constable

- 3.4.1 The new Act alters the status of police officers for the purposes of this legislation from holding an 'office' to being 'employees' of both the Chief Constable and the police authority. Anything done by a police officer, including special constable and cadet, in the performance or purported performance of his functions shall be treated as being done in the course of that employment.
- 3.4.2 A new provision is made for the payment from the police fund of any compensation, costs or expenses awarded against the Chief Constable, arising from proceedings brought against him under the Race Relations Act 1976. Any sums required for the settlement of a claim made against him under the Act will also be paid from the police fund if approved by the police authority.
- 3.4.3 Proceedings under the Act against the Chief Constable will be brought against the officer holding that rank for the time being. (Although the Act does not specify this it seems that this provision would have the effect of placing liability on the Chief Constable in post for acts alleged against a predecessor.)
- 3.4.4 The police authority may also pay from the police fund any damages, costs or settlement made against a person under the direction and control of the Chief Constable. In this case however a greater discretion is allowed to the authority in that they may make such a decision 'in such cases and to such extent as appear to it to be appropriate'.
- 3.4.5 The law will now allow a person subject to criminal investigation to take action under the civil law against the force on the grounds of racial prejudice. The force may apply for a stay or sist of these civil proceedings on the grounds that they might prejudice the enquiry, and this will be granted automatically by the court unless it is satisfied that continuance of the proceedings would not result in the prejudice alleged.

3.5 The Force Racial Equality Strategy

- 3.5.1 Following the publication of the Report of the Public Inquiry into the Murder of Stephen Lawrence (the Macpherson Report) the Scottish Police Service responded to the various recommendations made by establishing a national working group.

This led to the publication of ACPOS guidance on racial diversity which reflects and expands on the recommendations of Sir William Macpherson. Locally the force has established a working group, encompassing representatives from all staff associations and trade unions, which is developing a strategy to address staff recruitment and retention, training, policing practice, internal conduct and complaints, and consultation with ethnic groups.

- 3.5.2 The force has developed a draft strategy which is designed to meet the various requirements of the Macpherson Report recommendations and relevant legislation.

With an overall aim of promoting racial justice and equality the strategy document provides a framework for co-ordinating and directing actions and monitoring progress. It is hoped that the Board will endorse the final version of the document which will demonstrate their own commitments under the Race Relations (Amendment) Act.

3.5.3 The strategy contains four main strands each of which incorporate a number of key objectives. These are summarised as follows:

- **Prioritising Racist Incidents, Harassment and Victimisation**

- establishing an effective process to record and investigate racist incidents to the satisfaction of victims and the community

- providing support and advice to vulnerable people and groups with a view to preventing racist incidents

- taking account of the needs of victims, their families, witnesses and the wider community

- **Training Staff to Recognise and Respond to Racist Issues**

- enhancing the accessibility of policies and procedures relating to discrimination

- providing training in racial awareness, equality, and cultural diversity

- promoting community relations at local level

- monitoring staff attitudes and conduct

- enhancing the recruitment, retention and progression of minority ethnic staff

- **Working In Partnership With The Community**

- developing an effective consultation process to assess need and expectation

- responding to community concerns

- ensuring effective interpretation services are available

- **Monitoring and Assessing Non-Discriminatory Service**

- ensuring an equitable standard of service to all members of the community which takes account of their specific needs

- monitoring service delivery standards.

3.5.4 The force has appointed an independent training consultancy to deliver an awareness package to all staff over a two year period commencing in January 2001. Senior officers, including the Chief Constable will attend with effect from 8 January.

3.5.5 The force is represented on Tayside Racial Equality Council and works in partnership with that body to develop racial awareness amongst officers. A Multi-Agency Panel has been established in Dundee to address and resolve specific cases of racial harassment where a shared approach may bring about a more effective

solution. It is hoped that the local authorities in Angus and Perth and Kinross will establish similar panels in the near future.

- 3.5.6 A role has been identified for a Lay Advisory Group to inform the force on minority needs and give an independent perspective on the provision of service. Preliminary work has been undertaken and it is hoped to form the group within the next few weeks.
- 3.5.7 Although the proportion of staff from minority ethnic communities is currently unrepresentative of the local community positive steps are being taken to improve this position. The force will again participate in a specific minority recruitment day with other uniformed services, and all staff vacancies are circulated as a matter of course to TREC. Advertisements have been placed in minority publications and recruiting staff attend community events to generate interest in the force as a career. A target for minority recruiting will be set following consultation and the publication of updated census figures.

3.6 HM Inspectorate of Constabulary's Race Relations Thematic Inspection Report 'Without Prejudice'

Justice Minister Jim Wallace commissioned the report 'Without Prejudice' to examine how well the Scottish Police Forces were responding to the challenges posed by the Steven Lawrence enquiry report. The report records the commitment of Scottish Chief Constables to improving relations with and services to black and minority ethnic communities, whilst recognising that further work is required. The report noted that Tayside Police had a visible and genuine commitment to improve police relations with ethnic minority communities. The report makes 19 recommendations and 15 suggestions for taking action forward in Scotland and Tayside Police is addressing this now. Should members wish to view the document it is posted on the HMIC website ww.scotland.gov.uk/hmic.

4. FINANCIAL IMPLICATIONS

- 4.1 At this stage it is not possible to determine the extent of any financial implications which may arise directly from the Act. There may significant costs in relation to meeting liability claims which may arise from acts carried out by officers in undertaking their policing functions. Whilst a significant portion of any claim payment may ultimately be recoverable from the force's liability insurance arrangements the Board may be required in the event of any breach under the act to fund any penalty imposed and/or contribute to the legal costs of defending any such action.
- 4.2 In addition it is probable that new monitoring responsibilities will fall on the force and the duty to consult more widely may have associated costs. It is anticipated these will be contained within the overall cash limited revenue budget for the Force. However this position may alter with the publication of more specific duties later this year. If these are likely to impact significantly on the revenue budget for the Force a further report detailing the financial implications will be submitted to the Board.

5. CONSULTATION

- 5.1 The Clerk and the Treasurer have been consulted in the preparation of this report.

6. CONCLUSION

- 6.1 The new legislation blurs the distinction between police authorities and the force itself and this is a reflection of the Act generally in that it applies to public bodies in relation both to elected members and officers – for example decisions of a planning committee or licensing board. To a large extent the Joint Police Board will be dependent on the Chief Constable to show compliance with the Act. It is recommended as an interim measure, until more specific guidance is issued by the Scottish Executive and CRE, the Board should be supplied with a report at each meeting summarising under relevant heads the performance of the force in meeting its obligations.

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